



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Air-Flo Cleaning Systems

File: B-259562.2

Date: January 18, 1996

Lawrence S. Mozham for the protester.

Christopher J. Aiple for Service-Tech Corporation, an interested party.

Phillipa L. Anderson, Esq., Philip Kauffman, Esq., and Jeanne Anderson, Esq.,
Department of Veterans Affairs, for the agency.

Christina Sklarew, Esq., and Michael R. Golden, Esq., Office of the General Counsel,
GAO, participated in the preparation of the decision.

DIGEST

Agency reasonably downgraded the protester's proposal because it failed to include information required by the request for proposals and because its past performance was reasonably found deficient based on the agency's experience with the protester under prior contracts.

DECISION

Air-Flo Cleaning Systems protests the rejection of its proposal by the Department of Veterans Affairs (VA) under request for proposals (RFP) No. 539-11-95, for duct-cleaning services at the VA Medical Center in Cincinnati, Ohio. Air-Flo contends that its technical proposal was improperly evaluated, and that its low price should have entitled the firm to the award.

We deny the protest.

The RFP stated that award would be made to the responsible offeror whose offer conformed to all requirements of the solicitation and was considered to be most advantageous to the government, price, and other factors considered. Further, the RFP expressly reserved the right to award the contract to other than the offeror whose price was lowest and provided that the evaluation of proposals would be based on the following factors, listed in descending order of importance: technical approach, past performance, and price. Each factor, including price, was to be scored and firms were to be ranked based on the combined score. The RFP provided detailed instructions for preparing proposals, directing offerors to furnish as part of their proposals:

"all descriptive material necessary for the contracting officer to determine whether the equipment offered meets the requirements of the RFP, and to establish exactly what the offeror proposes to furnish and what the government would be binding itself to purchase by making an award."

Offerors were directed to provide proof "of having state of the art equipment for cleaning HVAC ductwork and systems." The RFP also advised that all equipment used in the performance of the contract had to conform to OSHA standards, listed specific requirements for various types of equipment, and required offerors to comply with the latest standards developed by the National Air Duct Cleaning Association (NADCA).

Six firms submitted proposals in response to the RFP. Air-Flo did not submit a technical proposal or references, but submitted a pricing table as its offer. When proposals were evaluated, Air-Flo received a "not rated" score for its technical approach and past performance. The VA determined that two proposals were in the competitive range and made its source selection based on those firms' initial proposals. After the contract was awarded, another firm protested the competitive range determination and the VA agreed to conduct discussions with all offerors as corrective action. During discussions, the agency informed Air-Flo of its failure to submit a technical proposal with its initial offer. When best and final offers (BAFO) were requested, Air-Flo submitted some information concerning its technical approach and past performance in a letter.

The agency's technical evaluation team reviewed the BAFO submissions and revised its scores for each offeror. Air-Flo's proposal offered the second lowest price and received the fifth lowest overall score, which was based on all three evaluated factors. Air-Flo's proposal was considered weak in the areas of technical approach and past performance. The other firm whose proposal was found in the initial competitive range was selected for award, the original contract was terminated for convenience and a new award made. Upon receiving notice of the new award, Air-Flo submitted an agency-level protest. When the VA denied that protest, this protest followed.

Air-Flo protests that it is qualified to perform the work and that it should have received the award because its price was lower than the awardee's price. Air-Flo states that its technical proposal was directed at a lay person's level of understanding, and essentially objects to the notion that technical superiority can be measured by the inclusion of more material in a technical proposal. Air-Flo also objects to the VA's evaluation of the firm's past performance.

In reviewing whether a proposal was properly evaluated, our Office will not reevaluate the proposal, as the determination of whether a proposal meets the contracting agency's needs is a matter within the agency's discretion, but will examine the record to determine whether the evaluators' judgments were reasonable and consistent with the stated evaluation criteria. Triton Marine Constr. Corp., B-250856, Feb. 23, 1993, 93-1 CPD ¶ 171.

For the technical approach evaluation factor, the RFP specifically instructed offerors to furnish the following information:

- "1. Describe the method your company utilizes in cleaning HVAC ductwork.
- "2. Describe the equipment your company utilizes in cleaning HVAC ductwork. Enclose brochures describing equipment with offer.
- "3. Are you a member and do you follow the standards of NADCA? If so, please provide a copy of NADCA's duct cleaning standards and a copy of your NADCA membership certificate."

The evaluation team determined that Air-Flo's proposal only described its cleaning methods in very general terms, failed to demonstrate compliance with the applicable industry standards, and failed to discuss in any detail the equipment it was proposing to use.

We agree with the evaluation team's finding that the very general technical information submitted as the protester's proposal failed to address a number of the RFP requirements. For example, although the RFP requested information regarding membership in the NADCA and compliance with that organization's standards, Air-Flo, which is not a member of NADCA, only stated in its proposal that the firm's "standards exceed the NADCA Regulations concerning the cleaning and inspection of duct work." As noted above, the RFP warned offerors that proposals should include sufficient descriptive material to demonstrate compliance with the requirements of the RFP. Where, as here, the solicitation specifically directs offerors to demonstrate their capabilities in their technical proposals, an offeror disregards any specific requirements at its peril. See Laboratory Sys. Servs., Inc., B-256323, June 10, 1994, 94-1 CPD ¶ 359. In the absence of specific information demonstrating compliance with the RFP requirements, the agency reasonably downgraded the protester's proposal under technical approach.

The evaluation team found that where Air-Flo's proposal did describe its procedures more specifically, it indicated methods that did not comply with NADCA standards, such as inflating rubber balloons in ducts to block outside air flow during the use of certain vacuum equipment. While Air-Flo asserts that this particular practice is not

a procedure that was developed by the firm, but is the practice recommended by the vacuum equipment manufacturer, the protester's assertions do not rebut the agency's conclusion that the practice is inconsistent with the industry standard specified in the RFP.

Regarding past performance, the evaluation record shows that the VA contacted two of the references listed in Air Flo's proposal. (The RFP required that offerors furnish a list of references in their proposals.) These references rated Air Flo "fair to good." Further, the evaluators noted that the VA has experienced difficulties with Air-Flo's performance under prior contracts, where "there have been OSHA and safety violations which cause the team to question Air-Flo's ability to comply with the specifications." The VA could reasonably rely on its own direct experience with Air-Flo to assess that firm's past performance and the protester has not demonstrated that this rating was unreasonable. While the protester challenges the contracting officer's assertion that the VA contacted two of the references listed in Air-Flo's proposal and that these references provided only fair-to-good reports of the protester's performance, we do not think that the record contains sufficient information to disprove the agency's statements in this regard. For example, Air-Flo does not allege that it spoke to every person at the referenced organizations who could have been contacted by the agency, nor does the protester provide any direct statements from personnel of these organizations to rebut the agency's assertions.

In sum, the record reflects that the agency properly downgraded Air-Flo's technical approach because of the omissions and informational deficiencies relative to the requirements listed in the RFP and Air-Flo's past performance based on VA's own experience with Air-Flo. Under the RFP evaluation scheme, these matters were properly taken into account by the VA in determining that Air Flo, despite its lower price, had not submitted the proposal most advantageous to the government.

The protest is denied.

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